

## SUBCHAPTER I—THE ADMINISTRATION ON DEVELOPMENTAL DISABILITIES, DEVELOPMENTAL DISABILITIES PROGRAM

### PART 1385—REQUIREMENTS APPLICABLE TO THE DEVELOPMENTAL DISABILITIES PROGRAM

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AUTHORITY: 42 U.S.C. 6000 et. seq.

SOURCE: 49 FR 11777, Mar. 27, 1984, unless otherwise noted.

#### § 1385.1 General.

Except as specified in § 1385.4, the requirements in this part are applicable to the following programs and projects:

- (a) Federal Assistance to State Developmental Disabilities Councils;
- (b) Protection and Advocacy of the Rights of Individuals with Developmental Disabilities;
- (c) Projects of National Significance; and
- (d) University Affiliated Programs (UAPs).

[52 FR 44845, Nov. 20, 1987, as amended at 54 FR 47984, Nov. 20, 1989; 61 FR 51153, Sept. 30, 1996]

#### § 1385.2 Purpose of the regulations.

These regulations implement the Developmental Disabilities Assistance and Bill of Rights Act as amended (42 U.S.C. 6000, et seq.).

#### § 1385.3 Definitions.

In addition to the definitions in section 102 of the Act (42 U.S.C. 6001), the following definitions apply:

*ACF* means the Administration for Children and Families within the Department of Health and Human Services.

*Act* means the Developmental Disabilities Assistance and Bill of Rights Act, as amended (42 U.S.C. 6000 et. seq.).

*ADD* means the Administration on Developmental Disabilities, within the Administration for Children and Families.

*Commissioner* means the Commissioner of the Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services or his or her designee.

*Department* means the U.S. Department of Health and Human Services (HHS).

*Developmental disability* shall have the same meaning in 45 CFR parts 1385, 1386, 1387, and 1388 as it does in the Developmental Disabilities Act, section 102(8), which reads “the term ‘developmental disability’ means a severe, chronic disability of an individual 5 years of age or older that—

- (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (2) Is manifested before the individual attains age 22;
- (3) Is likely to continue indefinitely;
- (4) Results in substantial functional limitations in three or more of the following areas of major life activity—
  - (i) Self-care;
  - (ii) Receptive and expressive language;
  - (iii) Learning;
  - (iv) Mobility;
  - (v) Self-direction;
  - (vi) Capacity for independent living; and
  - (vii) Economic self-sufficiency.
- (5) Reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated, except that such term, when applied to infants and young children means individual from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.” Such determination shall be made on a case-by-case basis and any State eligibility